Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage	)))	WC Docket No. 18-155

DECLARATION OF JOSHUA DEAN NELSON
ON BEHALF OF GREAT LAKES COMMUNICATION CORPORATION

I, Joshua Dean Nelson, declare under oath and pursuant to 18 U.S.C. § 1621, that:

1. I am the founder and CEO of Great Lakes Communication Corporation ("GLCC"), a CLEC in Northwestern Iowa with its principal place of business in Spencer, Iowa.

2. Since its founding, GLCC has provided services to free conference calling and similar voice services customers and has provided revenue sharing in order to attract and retain those high volume customers.

3. GLCC has invested millions of dollars in building and regularly upgrading a sophisticated high-capacity network capable of handling and switching these significant traffic volumes.

4. Moreover, GLCC has used its revenues from access stimulation and other services to invest millions of dollars in the Spencer community and Northwestern Iowa, providing local phone and broadband Internet access to **[BEGIN CONFIDENTAL]** [redacted] **[END CONFIDENTIAL]** in three Iowa counties that, absent GLCC's investments, would still be waiting for broadband access.

5. In response to the FCC's 2011 *Connect America Fund Order*, GLCC reduced its tariffed access rates as required by that order.

6. Based on my review of GLCC's financial information for the year to date, GLCC is a profitable company with a pre-tax net income of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** through August 31, 2019.

7. Based on my review of GLCC's financial information for the year to date, when the new regulations in the *Access Stimulation Order* take effect, GLCC will immediately become unprofitable because it will lose all access revenues that it has historically relied upon, and at the same time become financially responsible for and obligated to provide tandem switching and transport services for the benefit of the IXCs that deliver traffic to its network. Thus, the *Access Stimulation Order* will have more than double the impact on GLCC as what the Commission originally proposed in the *Access Stimulation Order NPRM.*

8. Based on existing traffic volumes and rates, I estimate that, had these new access stimulation rules been effective in 2019, GLCC would have suffered a loss of more than **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for the period January through August 2019, rather than making **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** during that same time period.

9. In short, the *Access Stimulation Order* would be financially ruinous and wipe out GLCC as a company if it continues to provide service to high volume customers, even if GLCC has no revenue to share.

10. The Commission's alternative suggestion that high volume service providers start paying not only for the end user telecommunication services they obtain, but also the costs of providing tandem switching and transport, is unreasonable. These service providers will not pay rural LECs for these services, but instead will migrate to larger LECs that can continue to engage in revenue sharing because they have higher volumes of originating traffic and thus would not

trigger the terminating-to-originating traffic ratios in the new access stimulation rules. In other words, the *Access Stimulation Order* will eviscerate an entire line of business for GLCC while allowing other LECs located in more urban areas to continue providing an identical service for a profit.

11. The *Access Stimulation Order* will severely harm GLCC even if GLCC discontinues service to high volume customers immediately. The new access stimulation regulations will become effective 75 days after publication in the *Federal Register* and that a carrier will still be considered an access stimulator, and thus be required to pay for the IXC's tandem switching and transport services, until it has demonstrated reduced traffic volumes (below the 6:1 terminating-to-originating traffic ratio) for a period of six months. As such, even if GLCC immediately disconnects all high-volume service providers, it will still be required to incur the expense of tandem switching and transport on traffic terminating to its residential and business customers for a period of at least six months. During this period, GLCC will be deprived of its primary revenue source and required to bear a new burden in the form of obtaining and paying for tandem switching and transport services. The result is that GLCC will have to charge an unreasonably high and non-competitive rate to its residential and business customers in Northwest Iowa or incur a loss for a period of not less than six months.

12. The *Access Stimulation Order* will also likely subject GLCC to repetitive disputes and nonpayment scenarios even if GLCC does not violate the 6:1 terminating-to-originating traffic ratio. According to the *Access Stimulation Order*, the Commission will "encourage [IXC] self-policing of our access stimulation definition and rules" and will allow IXCs to issue disputes

to carriers based on the originating and terminating traffic data available to them.[1] Historically, GLCC has sent the majority of its originating traffic through a single carrier. Thus, no other IXC would have any basis to understand GLCC's terminating-to-originating traffic ratio. However, due to the Commission's encouragement of self-policing by the IXCs, other carriers will still be able to dispute GLCC's ratio based on their skewed data and GLCC will have no choice but to spend the time and money to defend those actions, forcing it to endure even more financial hardship.

13. In the past, GLCC, like many other rural carriers, has had to spend significant time and resources in its battle against IXCs' nonpayment schemes. For example, GLCC spent **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** and dedicated hundreds of employee hours on its access charge dispute with AT&T. Under the *Access Stimulation Order* (and the enhanced IXC "self-policing" and ratio disputes the *Order* brings with it), I believe GLCC will be forced to dedicate even heftier financial and personnel resources to resolving IXC-brought disputes.

14. Under the *Access Stimulation Order*, GLCC will also have to dedicate significant time and resources to analyze and revise its tariff so as to ensure compliance with the new access stimulation rules. This, of course, will require a significant time investment by highly skilled employees and the retention of outside experts and consultants.

15. Moreover, the Commission's other suggestion that its "high cost universal service program provides support to rural, insular, and high cost areas by as necessary to ensure that consumers in such areas pay rates that are reasonably comparable to rates in urban areas,"[2]

---

[1] *In re Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Report and Order and Modification of Section 214 Authorizations, at 27 ¶ 59 (Sept. 27, 2019) ("*Access Stimulation Order*").

[2] *Access Stimulation Order* at 13 ¶ 29.

would not mitigate these consequences because GLCC is a CLEC and the Commission has made CLECs ineligible for this support.[3]

16. Given the costs of providing service in rural areas, and the fact that GLCC would never be able to compete for *any* high volume customers in the future – including call centers or other businesses that are physically located in GLCC's service territory but generate high volumes of in-bound calls - without being concerned that it would trigger the access stimulation rules, I do not believe that GLCC will ever be able to recover from the impact of the Commission's rules, nor do I believe GLCC will be able to run a profitable business.

17. For example, due to tax incentive programs adopted by the State of Iowa, companies like Apple, Facebook, and Microsoft have recently turned their attention to the Midwest as the possible location for new call centers. Indeed, Iowa Network Services, Inc. d/b/a Aureon ("Aureon") has developed specific product offerings to help encourage call centers to move to rural communities in Iowa.[4] Once the *Access Stimulation Order* takes effect, however, GLCC will likely decline to pursue these economic development opportunities because of the

---

[3] *See In re Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Notice of Proposed Rulemaking, at 17-18 (July 20, 2018) (noting that "[u]nlike the ILECs, [] CLECs were never given access to the cost-recovery mechanisms created in the *Connect America Fund Order*" as "the Commission told the CLECs to fend for themselves"); *see also In re Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663, ¶ 864 (2011) ("We decline to provide an explicit recovery mechanism for competitive LECs. Unlike incumbent LECs, because competitive carriers have generally been found to lack market power in the provision of telecommunications services, their end-user charges are not subject to comparable rate regulation, and therefore those carriers are free to recover reduced access revenue through regular end-user charges. Some competitive LECs have argued that their rates are constrained by incumbent LEC rates (as supplemented by regulated end-user charges and CAF support); to the extent this is true, we would expect this competition to constrain incumbent LECs' ability to rely on end-user recovery as well. Moreover, competitive LECs typically have not built out their networks subject to COLR obligations requiring the provision of service when no other provider will do so, and thus typically can elect whether to enter a service area and/or to serve particular classes of customers (such as residential customers) depending upon whether it is profitable to do so without subsidy.").

[4] *See, e.g.*, AUREON, *Call Center Solutions*, available at: https://www.aureon.com/services/customer-service/call-center/.

risk that the addition of this incoming traffic would cause it to exceed the 6:1 terminating-to-originating traffic ratio, even if GLCC otherwise discontinues providing service to free conference calling providers and had no revenue sharing agreement. GLCC should not have to decline these business opportunities, nor should call centers locating in rural areas be left with only a single choice for their telecommunications services. Unfortunately, this is what will happen under the *Access Stimulation Order*.

18. Moreover, immediately terminating all traffic to free conference calling and similar services will be highly disruptive for the millions of Americans that rely on these services. The Commission's insistence on implementing its new rules in a period of 75 days provides no opportunity for GLCC and its customers to develop and execute a reasonable transition plan.

I declare under the penalty of perjury that the foregoing is truthful and correct to the best of my knowledge, information, and belief.

Dated: October 4, 2019

Joshua Dean Nelson

REDACTED FOR PUBLIC INSPECTION